

REMARKS**INTRODUCTION**

In accordance with the foregoing, claims 1, 15-18, and 22 have been amended, and claims 4-6, 9-10, and 14 have been cancelled, without prejudice or disclaimer. No new matter has been submitted.

Claims 1-3, 5-8, 11-13, and 15-21 are pending and under consideration.

REJECTION UNDER 35 USC 112

In view of the Examiner's helpful comments, independent claim 1 has been amended to remove any potential indefiniteness, without changing there scope thereof.

Withdrawal of this rejection is respectfully requested.

REJECTIONS UNDER 35 USC 102 and 103

Claims 1, 2, 7, 13, and 18-22 stand rejected under 35 USC 102 as being anticipated by Mogi et al., JP Publication No. 200210059; claims 3 and 8 stand rejected under 35 USC 103 as being obvious over Mogi et al. in view of Lee, U.S. Patent No. 6,611,383; claims 11-12 stand rejected under 35 USC 103 as being obvious over Mogi et al. in view of Noguchi et al., U.S. Patent No. 5,309,423; claims 15-16 stand rejected under 35 USC 103 as being obvious over Mogi et al. in view of Ichimura et al., U.S. Publication No. 20050163033; and claim 17 stands rejected under 35 USC 103 as being obvious over the combination of Mogi et al. and Ichimura et al. in further view of Arai et al., U.S. Patent No. 6,870,805. These rejections are respectfully traversed.

Briefly, though the Office Action has rejected claims 1, 2, 7, 13, and 18-22 under 35 USC 102 as being anticipated by Mogi et al., independent claims 1, 18, and 22 have been amended to include features from canceled claim 14, which stood rejected under 35 USC 103 as being obvious over a combination of Mogi et al. and Ichimura et al.

Accordingly, the below traversal will address the Office Action 103 rejection rational for the combination of Mogi et al. and Ichimura et al..

First, though the Office Action has relied upon the disclosure of Mogi et al., applicants note that an English language family member of this publication is Motegi et al., U.S. Patent No.

6,781,947, which will be referenced below for simplicity in explaining the non-obviousness of combining Mogi et al. and Ichimura et al.

Motegi et al. sets forth two primary embodiments of a plane or wedge shaped optical path joint prism 13 which can permit two light beams to reflect or transmit from/through the prism to both proceed toward a recording medium and a monitoring element to monitor the power of the light sources.

In all embodiments, Motegi et al. sets forth the benefits and preferences for the illustrated single optical path joint prism that has differently reflected incident sides to selectively permit incident light to transmit through an incident surface or reflect off the incident surface, including an inner surface of the prism. See FIGS. 4A-4B and 6A-6B of Motegi et al.

In addition, in FIGS. 8-9 and corresponding disclosure, Motegi et al. demonstrates with great detail the preference of differing wedge configurations.

Thus, a primary focus of Motegi et al. is the implementation of such a single optical path joint prism, and in particular a wedge shaped optical path joint prism.

Conversely, Ichimura et al. illustrates one example of a pickup in FIG. 14, illustrating two light sources and a single light receiving element to receive light from the light sources and reflected from a medium.

This pickup of Ichimura et al. is focused on using wavelength plates and polarization differentiating between the two light source beams in a box beam splitter. See paragraphs [0141] – [0145] of Ichimura et al. for example.

Further, with the illustrated box beam splitter of Ichimura et al., light is not redirected back to each light source and there is no discussion, suggestion, or enabling support explaining how a third light path for monitoring light source energies (such as in Motegi et al.) could be implemented.

Thus, the two beam splitting methods between Motegi et al. and Ichimura et al. are fundamentally different.

Here, as stated in MPEP 2143.01:

"If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie obvious*." Citing In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)(The court reversed the underlying rejection, holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a

change in the basic principle under which the [primary reference] construction was designed to operate")

It is respectfully submitted that the Office Action proffered modification of Mogi et al. would require substantial reconstruction and redesign of Mogi et al., as well as changing the primary inventive focus of Mogi et al..

In addition, based on the lack of disclosure of Ichimura et al. it is further respectfully submitted that there is no reasonable expectation of success for such a modification of Mogi et al.

Briefly, there is insufficient disclosure in Ichimura et al. or in the record to provide enabling support for either modifying Mogi et al. or to explain how the same would even work.

Accordingly, it is respectfully submitted that it would not have been obvious to modify Mogi et al. as proffered in the Office Action.

Withdrawal of the rejection of claims 1, 18, and 22 is respectfully requested. It is further respectfully submitted that claims depending from claims 1, 18, and 22 are equally in allowable condition.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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